

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 20266)
of Peter Folger, et al., to)
Appropriate from Woodruff and)
Whistle Creeks in San Mateo County)

Decision D 1137

ADOPTED MAY 22 1963

DECISION APPROVING APPLICATION IN PART

Peter Folger, Peter M. Folger and Abigael A. Folger having filed Application 20266 for a permit to appropriate unappropriated water; protests having been received; the applicants and protestants having stipulated to proceedings in lieu of hearing as provided for by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Rights Board pursuant to said stipulation; the Board, having considered all available information and now being fully advised in the premises, finds as follows:

1. Application 20266 is for a permit to appropriate 0.40 cubic foot per second (cfs) by direct diversion year-round and 30 acre-feet per annum (afa) to off-stream storage from November 1 of each year to June 1 of the succeeding year from Woodruff Creek and 0.16 cfs by direct diversion year-round and 15 afa to off-stream storage from November 1 of each year to June 1 of the succeeding year from Whistle Creek for irrigation, domestic, and stockwatering purposes in San Mateo County.

The points of diversion are to be located within the SE $\frac{1}{4}$ of NE $\frac{1}{4}$ and NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 11 and the SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 12, T7S, R4W, MDB&M.

2. Woodruff Creek courses in a general westerly direction from its point of origin approximately 3 miles to its confluence with La Honda Creek. Whistle Creek courses in the same direction from its point of origin approximately 3/4 of a mile to join Woodruff Creek at a point approximately 1,000 feet upstream from the Woodruff Creek-La Honda Creek Junction. The stream continues in a southerly direction approximately 2.5 miles to join Alpine Creek, forming San Gregorio Creek. San Gregorio Creek continues on in a general westerly direction approximately 11 miles to the Pacific Ocean.

3. The applicants propose to divert by gravity from Woodruff Creek at two points approximately 3/4 mile apart, the lowermost point to be located approximately 1/2 mile above the Woodruff Creek-Whistle Creek Junction and from Whistle Creek at a point approximately 3/4 mile above this junction. Water will be used directly from the creeks and diverted through two conduits of 0.20 cfs capacity and one conduit of 0.16 cfs capacity to off-stream storage at an existing reservoir, which will be enlarged to a capacity of 45 acre-feet. The water initially will be used for the irrigation of 45 acres and incidental uses and eventually to supply a subdivision.

4. Protests to Application 20266 were filed by ten individual users and the Redwood Terrace Water System, a nonprofit corporation serving 26 homes, claiming riparian

and pre-1914 rights to the use of water from La Honda and San Gregorio Creeks for domestic, stockwatering, irrigation, and fish culture purposes.

5. The flow of Woodruff Creek at the applicants' west property line, which is located approximately 1/2 mile above the confluence of Woodruff and La Honda Creeks, for the period from August 7 to October 5 of 1961, varied from 60 gallons per minute to 80 gallons per minute. On October 17, 1961, the flow of the creek at approximately the same point was 40 gallons per minute. On the latter date there was no flow in La Honda Creek at a point approximately 1 mile downstream from the Woodruff Creek confluence, and the flow of San Gregorio Creek at a point approximately 0.5 mile downstream from the Redwood Terrace Water System service area, located approximately 1 mile below the La Honda Creek-San Gregorio Creek confluence, was an estimated 5 gallons per minute.

6. Spot measurements of the flow of San Gregorio Creek taken during the period from May 25 through August 3 of 1962, ranged from 500 gallons per minute on May 25 at a point approximately 1.5 miles below the confluence of La Honda and Alpine Creeks to no flow on August 3 at a point approximately 6 miles below the same confluence.

7. Users on San Gregorio Creek located above protestant Modena, the lowermost protestant, have experienced critical shortages of water during the months of July, August, and September for the past four years. Land has been idle or dry-farmed due to an inadequate supply of water. Surplus

water occurs in San Gregorio Creek and its tributaries during the remainder of the year.

8. There is unappropriated water available to supply the applicants from October 1 of each year to June 1 of the succeeding year, and, subject to suitable conditions, such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water. There is no unappropriated water to supply the applicants from June 1 to October 1.

9. The intended use is beneficial.

10. As the applicants claim a riparian right to the use of water from Woodruff and Whistle Creeks, the permit should contain a term stating that water diverted under the permit shall not be in addition to such water, if any, as permittee may be entitled to use from the same source on the place of use authorized by the permit by virtue of a riparian or other right.

From the foregoing findings, the Board concludes that Application 20266 should be approved in part and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the following Order.

The records, documents, and other data relied upon in determining the matter are: Application 20266 and all relevant information on file therewith, particularly the reports of the field investigation made October 17, 1961, and August 3, 1962; State Water Resources Board Bulletin No. 1, "Water Resources of California," dated 1951, with particular reference

to precipitation and runoff data for the central coastal area; University of California Agricultural Extension Service Bulletin entitled "Agriculture, Population Increase, and Water Problems in San Mateo County," dated January 1956; and United States Geological Survey, La Honda, Mindego Hill, and San Gregorio 7.5-minute quadrangles, dated 1955, 1956 and 1961, respectively.

ORDER

IT IS HEREBY ORDERED that Application 20266 be, and the same is, approved in part, and that a permit be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. The amount of water appropriated shall be limited to the amount which can be beneficially used and shall not exceed 0.40 cubic foot per second by direct diversion to be diverted from about October 1 of each year to about June 1 of the succeeding year and 30 acre-feet per annum to off-stream storage at a maximum rate of diversion of 0.40 cfs to be collected from about November 1 of each year to about June 1 of the succeeding year from Woodruff Creek, and 0.16 cfs by direct diversion from October 1 of each year to about June 1 of the succeeding year and 15 acre-feet per annum to off-stream storage at a maximum rate of 0.16 cfs to be collected from about November 1 of each year to about June 1 of the succeeding year from Whistle Creek. The equivalent of such continuous flow allowance for any thirty-day period may be diverted in a shorter time if there be no interference with vested rights.

2. The maximum amount herein stated may be reduced in the license if investigation warrants.

3. Construction work shall be completed on or before December 1, 1965.

4. Complete application of the water to the proposed use shall be made on or before December 1, 1966.

5. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued.

6. All rights and privileges under this permit, including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

7. Permittee shall allow representatives of the State Water Rights Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

8. This permit does not authorize collection of water to storage during the period from about June 1 to about November 1 of each season to offset evaporation and seepage losses or for any other purpose.

9. Permittee shall comply with the requirements of the State Department of Water Resources relative to the filing of an application for the approval of plans and specifications

for the enlargement of a dam prior to enlargement of the existing off-stream storage reservoir as described under this approved water right application.

10. Water diverted under this permit shall not be in addition to such water, if any, as permittee may be entitled to use from the same source on the place of use authorized by this permit by virtue of a riparian or other right.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on the day of , 1963.

Kent Silverthorne, Chairman

Ralph J. McGill, Member

W. A. Alexander, Member